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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,716	07/28/2003	Yigang Cai	26	6719

7590 03/27/2009  
Lucent Technologies Inc.  
Docket Administrator (Room 3J-219)  
101 Crawfords Corner Road  
Holmdel, NJ 07733-3030

EXAMINER
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SHEIKH, ASFAND M

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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03/27/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/628,716		CAI, YIGANG	
	<b>Examiner</b>		<b>Art Unit</b>	
	Asfand M. Sheikh		3627	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The examiner notes the amendment filed on 7/17/2008 has been entered. The examiner notes that claims 1-3 and 5-14 are pending for examination. The examiner further notes that claims 1-3 and 10 have been amended, claims 11-14 are new, and that claim 4 has been canceled.

### ***Response to Arguments***

Applicant's arguments with respect to claim 1-3 and 5-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 3, 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel (US 6,987,844 B2) in view of Ritter (US 6,543,686 B1) and O'Neil (US 6,226,364 B1).

#### **Claims 1, 2, 3, 10-14**

Himmel discloses a telecommunication system having distinct billing for minutes used by subscriber activity (see at least, col. 1, lines 28-55). Himmel further discloses a monitoring a first account having a predetermined number of minutes in which billing of

these minutes takes place according to the subtraction of cumulative minutes from the total overall predetermined number of minutes (see at least, col. 1, lines 28-55).

Himmel further discloses after the cumulative minutes are used for a predetermined number of maximum amount of minutes, charging the subscriber separately for the surplus of activity of minutes that exceed the predetermined number of maximum minutes (see at least col. 1, lines 28-55). The examiner notes this interpretation of the teachings of Himmel is an account threshold that has a predetermined number of minutes of subscriber activity, where said predetermined number of minutes constitutes an amount of minutes that is less than a maximum amount of minutes that can be charged to the account during the billing period and further notes this reads on [Claim 3]'s formula).

Himmel fails to disclose the use of a post paid account and prepaid account for billing of subscriber minutes within a billing period via the use of monitored nodes within communication system infrastructure.

Ritter discloses monitoring subscriber activity relative to the post-paid account of the subscriber, subscriber activity defining an amount of service provided to the subscriber within a billing period associated with the postpaid account (see at least, col. 4, lines 21-25: the examiner notes a time measuring device in the SIM would be monitor and col. 5, lines 43-48: the examiner notes post paid); for so long as a cumulative amount of the subscriber activity does not exceed a postpaid plan threshold, billing the subscriber activity according to the postpaid account (see at least, col. 5, lines 43-48: the

Art Unit: 3627

examiner notes of the post paid is exceeded it is blocked therefore it must bill if not exceeded).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Himmel with the elements of Ritter for the first account to be a post-paid account. The examiner notes one of ordinary skill in the art would have been motivated to combine the teachings for the purpose of providing a simple billing method, instead of a complex billing system, thereby making it less time-consuming and expensive for a network operator (see at least, Ritter, col. 1, lines 10-24).

O'Neil discloses providing a prepaid account for in which minutes can be charged against the prepaid balance in the account (see at least, abstract) and further the use of monitored nodes within the communication infrastructure to conduct the billing of minutes that **[Claims 11-12 and 14]** support the services provided to the subscriber (see at least, abstract). Further **[claim 2]** O'Neil discloses if the subscriber activity exceeds the first account threshold, defining surplus activity, sending a message including indicia of the subscriber activity exceeding of the first account threshold (see at least, col. 15, lines 53-67: the examiner notes interruption/verification via PIN is interpreted as a message including indicia (e.g. entering of PIN) of exceeding a first account threshold).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Himmel with the elements of O'Neil for the surplus account to be a pre-paid account. The examiner notes one of ordinary skill

Art Unit: 3627

in the art would have been motivated to combine the teachings for the purpose of allowing customers to prepay the telephone service and thereby limit the amount of credit that they are extended for using the service (see at least, Ritter, col. 1, lines 10-24).

Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel (US 6,987,844 B2) in view of Ritter (US 6,543,686 B1) and O'Neil (US 6,226,364 B1) as applied to claim 1 above, and further in view of Examiner's Official Notice.

#### Claims 5-9

The examiner notes this interpretation of the teachings of Himmel is an account threshold that has a predetermined number of minutes of subscriber activity, where said predetermined number of minutes constitutes an amount of minutes that is less than a maximum amount of minutes that can be charged to the account during the billing period and further **[claim 7 and 9]** O'Neil discloses if the subscriber activity exceeds the first account threshold, defining surplus activity, sending a message including indicia of the subscriber activity exceeding of the first account threshold (see at least, col. 15, lines 53-67: the examiner notes interruption/verification via PIN is interpreted as a message including indicia (e.g. entering of PIN) of exceeding a first account threshold).

Himmel in view of Ritter and O'Neil fails to disclose billing the prepaid account as long as it doesn't not exceed an account balance and further if it does exceed an

Art Unit: 3627

account balance overcharging the account for surplus activity (e.g. charging a credit against the account).

The examiner takes Official Notice this notion of account thresholds can be applied to any account that requires billing based on the not exceeded a given balance and if so further billing for the exceeding balance if it permits or terminating service (e.g. if you exceed a credit limit for a given balance you can be overcharged for the surplus activity and be assessed an overcharge fee (e.g. overdraft check protection).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Himmel in view of Ritter and O'Neil with the elements of Examiner's Official Notice. The examiner notes one of ordinary skill in the art would have been motivated to combine the teachings for the purpose allowing the constant use of an account with out any cutoffs if a balance is exceeded.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 3627

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on 9a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571)272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Asfand M. Sheikh/  
Examiner, Art Unit 3627  
11/7/08

/F. Ryan Zeender/  
Supervisory Patent Examiner, Art Unit 3627